

REMARKS

With the foregoing amendment, Claims 1, 2, 4 and 6-28 are pending in the application. Claim 3 is canceled. Claim 5 was previously canceled and Claims 14-17 have been withdrawn. By this Amendment, the Applicant amends Claims 1, 18, 20, 21, and 23 and respectfully traverses the Examiner's rejections under 35 U.S.C. § 102 and 35 U.S.C. § 103.

The Examiner rejected Claims 1-4, 6, 9, and 18-28 under 35 U.S.C. § 102(b) as being anticipated by Jarvis (U.S. Patent No. 2,859,505). The Applicant respectfully disagrees.

The present invention, in certain embodiments, includes a mattress having reduced-firmness materials along a central region traversing the mattress from its head end to foot end in order to mitigate the occurrence of a central ridge following repeated use of the mattress as a sleeping surface (See Application paragraph 0011). The mattress is capable of supporting more than one concurrent user, such as in a queen or king size mattress (See Application paragraphs 003 and 0018). This central region is preferably 2-12 inches wide to ensure that the firm-to-less-firm transition on each side of the mattress is relatively close to the center of the mattress. An associated box spring or box springs, as shown in Fig. 2, may also, or instead, present a central region with reduced firmness (See Application paragraphs 0009 and 0010). Furthermore, an adjustable member may be employed to controllably compensate for the development of a central ridge in the mattress (See Application paragraph 0014).

As described in a previous amendment, the Jarvis patent describes a casket mattress, as shown in Fig. 2, with an adjustable center area used to raise or lower a human body in order to push the shoulder forward or lower the abdomen for display. The mattress is not designed for repeated use that may result in the formation of a central ridge because the mattress provides stability for a dead body laying on the casket mattress which should only be used once. Thus, Jarvis neither teaches nor suggests using a central area of 2 to 12 inches to prevent the formation

of a central ridge because Jarvis is interested in solving the completely differently problem of providing stability for a single dead body by “firmly hold[ing] the body in [an] adjusted position” (col.1, line 17).

While the Applicant has canceled Claim 3, the limitations of Claim 3, along with any mattress at least the size of a queen sized mattress, has been incorporated into base Claims 1, 18, 20, 21, and 23 as amended, which is supported in the Application, as originally filed, on paragraphs 0003 and 0018, among other locations. No new matter is added by the foregoing amendment.

Because Jarvis describes a casket mattress for a single dead body, Jarvis neither teaches nor suggests the element of a mattress that is “at least the size of a queen size mattress” which is capable of supporting more than one concurrent user (See amend Claims 1, 18, 20, 21, and 23). Because Jarvis does not teach all of the elements in now amended base Claims 1, 18, 20, 21, and 23, the Applicant respectfully submits that the § 102 rejection of base Claims 1, 18, 20, 21, and 23 should be withdrawn. Because Claims 2, 4, 6-13, 19, 22, and 24-28 depend from and are limited by base Claims 1, 18, 21 and 23 respectively, the § 102 rejection of these claims should be withdrawn.

The Examiner rejected Claims 1-4, 6-8, 18-22, and 24-27 under 35 U.S.C. § 103(a) as being unpatentable over Selman et al. (U.S. Patent No. 5,579,549) or Nunez et al. (U.S. Patent No. 5,579,549) in view of Farley ‘849 (U.S. Patent No. 5,077,849) or Farley ‘179 (U.S. Patent No. 6,003,179). The Applicant respectfully disagrees.

Selman et al. describe an insulator pad having selected zones of enhanced firmness for use in mattresses (See Figs. 1-3). The Examiner’s assertion that Selman et al. describes a center region 102 that traverses the mattress from the head portion 104 to the foot portion 102, as shown in the marked up drawing of the Office Action, is not correct and contrary to the Selman

et al. description (See Figs. 1-3, col. 3, lines 19-29, and col. 4, lines 48-67). Selman et al. clearly defines: a head portion 104 corresponding to the head end 108 of the present invention and a foot portion 106 corresponding to the foot end 110 of the present invention. The center portion 102, however, traverses the mattress in Selman et al. in parallel with the head portion 104 and foot portion 106 “because the center must often bear the most weight during sleeping” (See col. 1, lines 28-29). In other words, the center portion 102 horizontally traverses the mattress from side-to-side to support a person’s midsection, but not from the head end to the foot end.

Fig. 3 of Selman et al. supports this argument by showing an insulator pad 300 that is used for “a couple desiring different degrees of firmness for their respective portions of the bed” (See col. 4, lines 65-67). Fig. 3 shows an insulator pad 300 with “two vertically divided sections 302, 304” (See col. 4, line 60-62) that extend from the head end, i.e., where a person’s head is positioned while lying on the mattress, to the foot end, where a person’s feet are positioned while lying on the mattress. Fig. 3 does not show a center portion between the sections 302 and 304 that traverses the mattress 300 from the head end to the foot end. Therefore, Selman et al. only describe a center portion 102 that traverses a mattress from side-to-side, not from head-to-foot.

Nunez et al. describe a convoluted foam cushion including seven rectangular, longitudinally spaced comfort zones corresponding to seven portion of a human body (See Fig. 2). The Examiner’s assertion that Nunez et al. describes a center region that traverses the mattress from the head end to the foot end, as shown in the marked up drawing of the Office Action, is not correct and contrary to the Nunez et al. description (See Figs. 1 and 2, col. 3, lines 1-5). Fig. 1 clearly shows that each zone extends horizontally across a person’s body and from side-to-side of a cushion 10. Fig. 2 shows a body 22 that is “cut at opposite side edges 28 and 30

and opposite ends 32 and 34” (See col. 3, lines 1-5). With respect to Fig. 1, the end 32 of Fig. 2 is the head end, i.e., the end proximally where a person’s head is positioned while lying on the cushion, and the end 34 of Fig. 2 is the foot end, i.e., the end proximally where a person’s feet are positioned while lying on the cushion. The Examiner cannot simply re-define the side edges 28 and 30 as head and foot ends (See Office Action mark up drawing) because each zone must extend across a particular zone of a person’s body according to Fig. 1. For example, one zone corresponding to a person’s head, must extend from side-to-side of the cushion 12. Therefore, Nunez et al. only describe a center portion that traverses a mattress from side-to-side, not from head-to-foot.

Farley ‘849 describe a convoluted foam pad for supporting a reclining human body on a bed including an area 201 for supporting the head of a body, an area 205 for supporting the middle back of a body, and an area 209 for supporting the legs and feet of a body (Fig. 24 and col. 14, lines 48-68). Like Selman et al. and Nunez et al., Farley ‘849 only describe a center portion that traverses a mattress from side-to-side, not from head-to-foot.

Farley ‘179 describes a pad that can be positioned upon an inclined surface for supporting a recumbent human being having “shoulder, foot, and tail support regions 22, 24, and 26 (Fig. 2 and col. 5, lines 33-38). Like the previous references, Farley ‘167 only describes a center portion, e.g., region 26 (See Fig. 2), that traverses a pad from side-to-side, not from head-to-foot.

With regard to the marked up drawings associated with Selman et al. and Nunez et al. in the Office Action or any drawings in the above references, it would require impermissible hindsight reasoning for the Examiner to conclude that it would be obvious to rotate the orientation of the center region to traverse a mattress from the head end to the foot end because none of the references are concerned with center ridge formation.

As described above, neither Selman et al. nor Nunez et al. nor Farley '849 nor Farley '179 teach or suggest using a "center region traversing the mattress from the head end to the foot end" (See Claims 1, 18, 20, 21, and 23). Therefore, either Selman et al. or Nunez et al. or Farley '849 or Farley '179, whether taken alone or in any reasonable combination, fail to make a prima facie case of obviousness for amended base Claims 1, 18, 20, 21, and 23. Furthermore, because the above remarks apply to any mattress regardless of size, either Selman et al. or Nunez et al. or Farley '849 or Farley '179 or in the knowledge generally available to one of ordinary skill in the art, whether taken alone or in any reasonable combination, fail to make a prima facie case of obviousness with respect to originally filed Claims 3 and 4.

The Examiner asserted that it would have been obvious to modify either Selman et al. or Nunez et al. "by making the width of the center region about 2-12 inches as taught by either Farley '849 or Farley '179 since such a modification would support the buttocks area adequately of an individual laying parallel to the longitudinal axis of the mattress" (See Office Action page 3, lines 17-21). The Examiner appears to misinterpret the motivation and purpose for the invention as claimed in Claims 1, 18, 20, 21, and 23. For queen sized mattresses or mattresses that support concurrent use by more than one person, the center region is an area in which users do not typically or repeatedly lay, which is the reason why a center ridge may form. As suggested by the Examiner, the above-cited references are not concerned with preventing center ridge formation, but with supporting a portion of a user's body. Therefore, there is no suggestion or motivation, to modify Selman et al. or Nunez et al. using Farley '849 or Farley '179, or in the knowledge generally available to one of ordinary skill in the art as suggested by the Examiner regarding "Queen/King size mattresses" (See Office Action, page 4 lines 1-6) because any combination of the references would not mitigate center ridge formation according to Claims 1, 18, 20, 21, and 23.

Because there is no suggestion or motivation, either in Selman et al., Nunez et al., Farley '849, or Farley '179, or in the knowledge generally available to one of ordinary skill in the art, to modify the cited references, the Examiner has failed to make a prima facie case of obviousness for amended base Claim 1, 18, 20, 21, and 23.

Therefore, the Applicant respectfully submits that the rejection regarding amended base Claims 1, 18, 20, 21, and 23 under 35 U.S.C. § 103(a) based on Selman et al., Nunez et al., Farley '849, and Farley '179 should be withdrawn.

Because Claims 2, 4, 6-13, 19, 22, and 24-28 are dependent on and limited by now allowable Claims 1, 18, 21, and 23 either directly or indirectly, the Applicant respectfully submits that the various rejections of Claims 2, 4, 6-13, 19, and 24-28 should be withdrawn, for the same reasons as stated above.

CONCLUSION

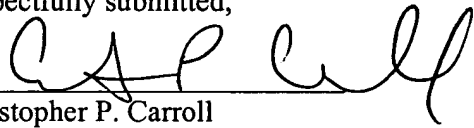
In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Applicants believe that the appropriate fees are provided due in connection with this submission. However, if a fee is due, please charge our Deposit Account No. 18-1945, under Order No. SMCY-P01-104 from which the undersigned is authorized to draw.

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Respectfully submitted,

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